



05-1303

RCE/1600

PTO/SB/80 (8-00)  
Approved for use through 10/31/2002. OMB 0651-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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## REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000  
provides for continued examination of an utility or plant application  
filed on or after June 8, 1995.

See The American Inventors Protection Act of 1999 (AIPA).

Application Number	09/721,131
Filing Date	November 22, 2000
First Named Inventor	Bass, Ralph L.
Group Art Unit	1616
Examiner Name	Frank Choi
Attorney Docket Number	014123-000008

#15  
N.M.  
5/28/03

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

**NOTE:** 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application, Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. **Submission** required under 37 C.F.R. § 1.114

a. ☒ Previously submitted

i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on \_\_\_\_\_  
(Any unentered amendment(s) referred to above will be entered).

ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

iii. ☒ Other **Consider the 38 journal articles in the appendix attached to the Appeal Brief previously filed on April 21, 2003.**

b. ☒ Enclosed

i. ☐ Amendment/Reply

ii. ☐ Affidavit(s)/Declaration(s)

iii. ☐ Information Disclosure Statement (IDS)

iv. ☒ Other **Response to Notice of Defective Appeal Brief**

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)

b. ☐ Other \_\_\_\_\_

3. **Fees** The RCE fee under 37 C.F.R. § 1.17 (e) is required by 37 C.F.R. § 1.114 when RCE is filed.

a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. **13-4365**

i. ☒ RCE fee required under 37 C.F.R. § 1.17 (e)

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ii. ☒ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)

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375.00 OP

iii. ☐ Other \_\_\_\_\_

b. ☒ Check in the amount of \$ **375.00** enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

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MAY 15 2003  
TECH CENTER 1600/2900

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Jennifer L. Skord	Registration No. (Attorney/Agent)	30,687
Signature		Date	May 12, 2003

### CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as **express mail** in an envelope addressed to: Commissioner For Patents, PO Box 1450, Mail Stop: RCE, Alexandria, VA 22313-1450 on: **May 12, 2003**

Name (Print/Type)	Tim Kroll	Date	May 12, 2003
Signature			

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND Fees and Completed Forms to the following address: Commissioner for Patents, Mail Stop RCE, PO Box 1450, Alexandria, VA 22313-1450.

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<b>FEE TRANSMITTAL</b> <b>for FY 2003</b> <small>Patent fees are subject to annual revision.</small>		<b>Complete if Known</b>	
		Application Number	09/721,131
		Filing Date	November 22, 2000
		First Named Inventor	Bass, Ralph L.
		Examiner Name	Frank Choi
		Group Art Unit	1616
<b>TOTAL AMOUNT OF PAYMENT</b>		Attorney Docket No.	014123-000008
		<b>(\$ 375.00)</b>	

<b>METHOD OF PAYMENT (check all that apply)</b>				<b>FEE CALCULATION (continued)</b>																																																																																																																																																																																					
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<b>The Commissioner is authorized to: (check all that apply)</b> <input type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.				<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr><td>105</td><td>130</td><td>205</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>127</td><td>50</td><td>227</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>139</td><td>130</td><td>139</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>147</td><td>2,250</td><td>147</td><td>2,250</td><td>For filing a request for <i>ex parte</i> reexamination</td><td></td></tr> <tr><td>112</td><td>920*</td><td>112</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>113</td><td>1,840*</td><td>113</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>115</td><td>110</td><td>215</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>116</td><td>400</td><td>216</td><td>200</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>117</td><td>920</td><td>217</td><td>460</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>118</td><td>1,440</td><td>218</td><td>720</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>128</td><td>1,960</td><td>228</td><td>980</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>119</td><td>320</td><td>219</td><td>160</td><td>Notice of Appeal</td><td></td></tr> <tr><td>120</td><td>320</td><td>220</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>121</td><td>280</td><td>221</td><td>140</td><td>Request for oral hearing</td><td></td></tr> <tr><td>138</td><td>1,510</td><td>138</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>140</td><td>110</td><td>240</td><td>55</td><td>Petition to revive - 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<b>SUBMITTED BY</b>		<b>Complete (if applicable)</b>	
Name (Print Type)	Jennifer L. Skord	Registration No.	30,687
Signature	<i>Jennifer L. Skord</i>	Telephone	919-286-8000
		Date	May 12, 2003

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Pr vide credit card information and authorization on PTO-2038.

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PATENT RECEIVED  
MAY 15 2003  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bass, Ralph L.                      Docket Number: 014123-000008  
Application Number: 09/721,131                      Art Unit: 1616  
Filed: November 22, 2000                      Examiner: Frank Choi  
For: METHOD FOR TREATING HIV

MAIL STOP -- RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**RESPONSE TO NOTICE OF DEFECTIVE APPEAL BRIEF (RESPONSE INCLUDING  
REQUEST FOR CONTINUED EXAMINATION)**

Sir:

This is responsive to the Notice mailed May 5, 2003 and having a 1-month deadline of **June 5, 2003**.

In the Notice, Examiner Choi indicated that the Appeal Brief was defective for two reasons.

*Reason No. 1.* Examiner Choi indicated, with respect to the attached appendix containing 38 journal articles, that these articles are new evidence and are untimely.

Hence, a Request for Continued Examination and a check in the amount of \$375.00 (small entity) for the fee for the RCE are enclosed, so that the 38 articles will be entered and Examiner Choi will consider the 38 articles.

*Reason No. 2.* Examiner Choi indicated that the Appeal Brief contains arguments for separate patentability of claim 28, but the last sentence of the section of the Appeal Brief regarding claim 28 also requests withdrawal of the rejection of claim 27.

It is noted that the last sentence of the section of the Appeal Brief regarding claim 28 specifically states:

Accordingly, appellant respectfully requests the Board of Appeals to instruct the Examiner to withdraw the rejection of claims 27 – 28 under section 101.

Clearly, the mention of claim 27 is a typographical error, and it is respectfully requested that this sentence be changed to read as:

Accordingly, appellant respectfully requests the Board of Appeals to instruct the Examiner to withdraw the rejection of claim 28 under section 101.

It respectfully submitted that the present application is in proper condition for allowance and official notification of allowance is respectfully requested.

#### **DEPOSIT ACCOUNT**

Although a \$375.00 check is enclosed for the RCE fee and so it is believed no further fee is due, the Commissioner hereby is authorized to charge any deficiencies of payment associated with this Communication, or to credit any overpayment, to Deposit Account No. 13-4365.

Respectfully submitted,

Moore & Van Allen PLLC

Date: May 12, 2003

By: 

Jennifer L. Skord  
Registration Number: 30,687  
Suite 800  
2200 West Main Street  
Durham, NC 27705  
Telephone: 919-286-8000

JLS/js

Enclosures:

RCE

Check in the amount of \$375.00 (small entity) for fee for RCE